SH2302306

Table of Contents

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: 12/01/11	Bureau/Station/Facility: SEB	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 011-16474-0451-013	Date: 12/01/11 Time: 0445
City or Station: Norwalk	Nature of Incident: SEB personnel responded to the location to serve an arrest warrant. Upon entering the home Deputies MacDonald and Malgoza positioned themselves in the kitchen. Without warning, Suspects Amaya and Bahena ran into the kitchen. Suspect Amaya was pointing a chrome plated semiautomatic pistol at the deputies. Fearing for their lives, a deputy- involved shooting occurred.
Location: [redacted] Pioneer Boulevard Norwalk, CA 90650	

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, (Residence), Rural, School, Street, Other: ______

Lighting (*circle only one*): (Darkness), Daylight, Other, Street Lights

Weather (*circle only one*): (Clear), Cloudy, Fog, Rain

Distance:

Incident Type (*circle one or more*): Accidental, (Armed Person), Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, (Warrant Service), Warning Shot, Other: ______

Initiated by (*circle only one*): (Arrest Warrant), Call, Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, (Other), Routine Patrol

Total # of Shots Fired by Deputy: 6

Total # of Shots Fired by Suspect: 0

Aero Unit? ☐ Canine Unit? ☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
[redacted]	Lavin	Peter		EM PM (Day)	(Regular) Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name		First Name	M.I.		
[redacted]		[redacted]	[redacted]		
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: [redacted]	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]	M.I.: [redacted]		
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph: [redacted]	Home Ph: [redacted]	
Last Name		First Name	M.I.		
Street Address	City	Zip Code	Work Ph	Home Ph	

Supervisors

Employee #	Last Name	First Name	M.I.	(*circle one or more*)
[redacted]	Lee	Eric		(On Duty), (Present during shooting), Witness to shooting, Involved in shooting
				On Duty, Present during shooting, Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	Dolson	David	

PSTD Use Only

SH # ______

Officer Involved Shooting

URN: 011-16474-0451-013

Rollout Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
12/01/11	0915 hours	04/18/13	

Employee #	Last Name	First Name	M.I
[redacted]	Parker	Brenda	
[redacted]	Bracken	Sonja	D

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
S# 1 Amaya	E#1 MacDonald	UC	JE	22	N	N	NN	
S# 1 Amaya	E#2Melgoza	UC	JE	22	N	N	NN	
E#1MacDonald	S# 1 Amaya	FR	HK	9	Y	Y	DH	
E#2Melgoza	S# 1 Amaya	FR	HK	9	Y	Y	DH	

See Front Side

Officer Involved Shooting
Involved Employee Information

URN: 011-16474-0451-013

Involved Employee

E 1

Employee # [redacted]	Last Name: MacDonald	First Name: John	M.I.: P.
Sex: M Race: White	Rank: Deputy	Unit Assignment: SEB	Work Assignment (Unit #, Module, etc.): 246 D, Gold Team
ShiftTime (*circle only one*): EM PM **(Day)**	ShiftType (*circle only one*): **(Regular)** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting: 8	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **(Uniform w/ Vest)**	Other Factors:
Age: [redacted] Height: 508	Weight: 175		
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]	Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted] Prior Shootings? ☒	Number of Prior Shootings: 2 Directed Force: [redacted]
Weapons Fired Brand: Heckler & Kotch	Caliber: 9mm # Shots: 4	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E 2

Employee # [redacted]	Last Name: Melgoza	First Name: Jesse	M.I.:
Sex: M Race: Hispanic	Rank: Deputy	Unit Assignment: SEB	Work Assignment (Unit #, Module, etc.): 246 E, Gold Team
ShiftTime (*circle only one*): EM PM **(Day)**	ShiftType (*circle only one*): **(Regular)** Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☒
Hrs of sleep prior to shooting: 6	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, **(Uniform w/ Vest)**	Other Factors:
Age: [redacted] Height: 509	Weight: 175		
Range Qualification Date: [redacted]		PPC Qualification Date: [redacted]	Laser Training Date: [redacted]
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted] Prior Shootings? ☒	Number of Prior Shootings: 1 Directed Force: [redacted]
Weapons Fired Brand: Heckler & Kotch	Caliber: 9mm # Shots: 2	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case #: Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:		PPC Qualification Date:	Laser Training Date:
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit: Prior Shootings? ☐	Number of Prior Shootings: Directed Force: ☐
Weapons Fired Brand:	Caliber: # Shots:	Weapons Fired Brand:	Caliber: # Shots:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

See Other Side

Officer Involved Shooting
Suspect Information

URN: 011-16474-0451-013

Suspect Information

S 1

Last Name: Amaya		First Name: Emiliano	M.I.: E
AKA Last Name:		First Name:	M.I.:
Sex: M Race: Hispanic	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: [redacted]	Home Phone: [redacted]	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 39 D.O.B. 06/29/72	Height: 504 Weight: 180	FBI #: [redacted]	CII #: [redacted]
Booking #: None	Primary Charge: 245(C) PC	Secondary Charge:	
Coroner Case? [X]	Coroner Case #: 2011-07830	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [X]	Apprehended? [X]	Mental Illness? [ ]	Criminal History [redacted]
Vehicle Make:		Model:	Year:

S 2

Last Name: Bahena		First Name: Henry	M.I.: E
AKA Last Name:		First Name:	M.I.:
Sex: M Race: Hispanic	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone: None	Home Phone: [redacted]	Social Security #:	Driver's License #: [redacted]
Age: 20 D.O.B. 09/03/90	Height: 511 Weight: 225	FBI #: [redacted]	CII #: [redacted]
Booking #: 2965022	Primary Charge: 187(A) PC	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #:	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [X]	Mental Illness? [ ]	Criminal History? [redacted]
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #:	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make:		Model:	Year:

S__

Last Name:		First Name:	M.I.:
AKA Last Name:		First Name:	M.I.:
Sex: Race:	Street Address:	City:	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #:	CII #:
Booking #:	Primary Charge:	Secondary Charge:	
Coroner Case? [ ]	Coroner Case #:	Intoxication/Drug Usage? [ ]	Substance Used:
Armed? [ ]	Apprehended? [ ]	Mental Illness? [ ]	Criminal History? [ ]
Vehicle Make:		Model:	Year:

INVESTIGATIVE SUMMARY

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

UNIT: Special Enforcement Bureau
DATE: December 1, 2011
TIME: 0445 hours
LOCATION: [redacted] Pioneer Boulevard, Norwalk, CA 90650
URN#: 011-16474-0451-013
IAB#: SH2302306

NATURE OF INCIDENT:

Internal Affairs Bureau Sergeants Brenda Parker and Sonja Bracken, along with [redacted] responded to [redacted] Pioneer Boulevard in the city of Norwalk, regarding a deputy involved hit shooting-person dead. Investigators learned the following:

Members of the Los Angeles County Sheriff's Department's Special Enforcement Bureau, Gold Team, were serving an arrest/search warrant at the home of Suspect Henry "Lil Night Owl" Bahena when a deputy involved shooting occurred inside of the home. Suspect Bahena, a documented member of the "Peaceful Varrio Norwalk" (PVN) criminal street gang, was wanted in connection with the July, 2011, murder of Victim [redacted] a 31-year old man. The murder was documented under Sheriff's file number [redacted].

Special Enforcement Bureau deputies complied with knock and notice requirements. After receiving no response from the residents, the deputies forcibly opened the front door and entered the home to serve the arrest/search warrant, which was endorsed for nighttime service.

Upon entering the home, Deputies MacDonald and Melgoza strategically positioned themselves in the kitchen to tactically hold and/or clear the adjacent areas. Without warning, Suspect Emiliano Amaya, accompanied by Suspect Henry Bahena suddenly emerged from the laundry room entry and ran into the kitchen. Suspect Amaya was holding a chrome-plated semiautomatic pistol in his right hand as they ran toward Deputies MacDonald and Melgoza. He pointed the gun in the direction of Deputies MacDonald and Melgoza. Deputies MacDonald and Melgoza were both armed with a Heckler and Koch, Model MP-5, 9mm submachine gun. Fearing for their safety and lives of themselves and partners, Deputy MacDonald fired four rounds and Deputy Melgoza fired two rounds at Suspect Amaya, striking him multiple times in the torso.

Suspect Bahena was not struck by the deputies' gunfire, and was immediately taken into custody. The Sheriff's Department Emergency Services Detail, who were attached to the Special Enforcement Bureau's Gold Team, were immediately summoned into the

home to render aid to Suspect Amaya. Lifesaving efforts were unsuccessful and Suspect Amaya was pronounced dead at the scene at 0503 hours by Deputy/Paramedic Ricky Hernandez, #[redacted]

INVOLVED PERSONNEL:

MacDonald, John – Deputy #[redacted]
Special Enforcement Bureau
Gold Team
Office of Homeland Security

Date of Employment: 05/31/95
Date Assigned to SEB: 06/10/07
Prior Shooting Incident(s): 3
Prior Founded Force Incidents[redacted]

Melgoza, Jesse – Deputy #[redacted]
Special Enforcement Bureau
Gold Team
Office of Homeland Security

Date of Employment: 01/20/93
Date Assigned to SEB: 01/25/09
Prior Shooting Incident(s) 1
Prior Founded Force Incidents[redacted]

INVOLVED SUSPECTS:

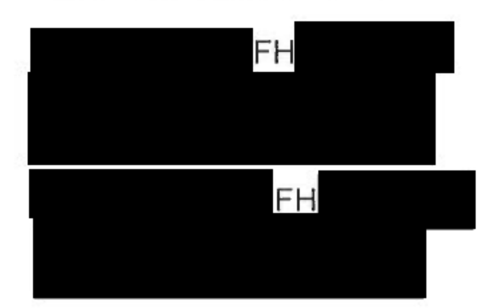
Amaya, Emiliano

Sex:	Male
Race:	Hispanic
Date of Birth:	06/29/72
Height:	5 feet 4 inches
Weight:	180 pounds
Booking #	N/A
Charge:	Assault on a Peace Officer, 245(C) PC
Injury:	**(DECEASED)**

Bahena, Henry

Sex:	Male
Race:	Hispanic
Date of Birth:	09/03/90
Height:	5 feet 11 inches
Weight:	225 pounds
Booking #	2965022
Charge:	187(A) PC
Injury:	None

CIVILIAN WITNESSES:



[redacted] FH [redacted]

[redacted] FH [redacted]

INVOLVED PERSONNEL STATEMENTS:

Deputy John MacDonald

Deputy MacDonald was interviewed by Sergeants Brenda Parker and Sonja Bracken of Internal Affairs Bureau on March 25, 2013. He was interviewed by Homicide Sergeants Marsh and Ewell on December 1, 2011. Both interviews were audio recorded and are included with this report.

Deputy MacDonald said at the time of the incident, he was assigned Special Enforcement Bureau's Gold Team, with the position of Fourth Man, designating him as an entry team member. He said that on December 1, 2011, at approximately 0225 hours, he arrived at his unit of assignment in preparation of a three location "high risk" search warrant operation. He said briefing was scheduled for 0400 hours. Prior to briefing, he assisted his teammates in preparing vehicles and equipment needed for the operation. Deputy MacDonald said he attended briefing at 0400 hours, as scheduled. Deputy MacDonald said that in the briefing, he learned the primary target, Suspect Bahena, a.k.a. "Lil Night Owl" was expected to be at the search warrant location [redacted] Pioneer Blvd, Norwalk. He also learned that Suspect Bahena is a documented member of the criminal street gang, "Peaceful Varrio Norwalk" and is suspected of kidnaping and robbery in which a handgun was used.

Deputy MacDonald said following briefing, he traveled to the Command Post, which was established at Lakeland Road at Pioneer Boulevard (Little Lake Park). He estimated his arrival to be approximately 0415 hours. He remained there for a short time until all personnel arrived and were prepared to serve the three locations simultaneously.

Deputy MacDonald said that at 0440 hours, he and the other Gold Team members designated for entry boarded their marked armored resistant vehicle (ARV). He said he was positioned on the passenger side skid. The ARV traveled west on Lakeland Road and turned south onto Pioneer Boulevard. The ARV stopped a short distance north of the location to allow outer containment personnel to post themselves at their pre-designated positions.

Deputy MacDonald said that at the location, the team disembarked the ARV and approached the location that was surrounded by a three foot chain link fence with a foot gate. The team entered the front yard, via the unlocked pedestrian gate, and made their approach. He said Gold Team Scout, Deputy Lavin approached the front entrance, found the metal security outer door to be unlocked and positioned it (security door) open.

> **IAB Note:** See Exhibit "A" pages 178 and 181 for photographs depicting the front of the location.

The interior door was locked. Deputy MacDonald said he heard Deputy Lavin's verbal commands demanding entry. He knocked on the door and stated, "Sheriff's Department search warrant, Sheriff's Department search warrant." He knocked again, and did not get acknowledgment. He said Deputy Lavin paused for a brief moment, made an additional announcement, and received no response. He said Deputy Lavin gave direction to Deputy Cheshier to ram the door. He said the interior door opened with one strike.

Deputy MacDonald said Deputy Lavin was the first to enter, followed by Deputy Geisbauer, Sergeant Lee and then himself. He said as they entered, Deputy Geisbauer and Sergeant Lee moved to the left (south) and focused their attention on the hallway that leads to the location's original three bedrooms. Deputy MacDonald said he followed Deputy Lavin west through the living room and into the kitchen, via the north open passageway.

> **IAB Note:** See Exhibit "A," pages 182 through185, photographs depicting a path from the living room entrance, west through the living room toward the north kitchen entrance.

He said he and Deputy Lavin staged in the kitchen area. He said once in the kitchen, Deputy Levin turned his attention toward the kitchen hallway area, and instructed him to "hold the kitchen deep" until they could clear the adjacent area. Deputy MacDonald said he stood there "holding long" with his MP5, which is his shoulder weapon. Deputy MacDonald said while in the kitchen, Deputy Lavin was positioned to his left (east) and he was standing in the west area of the kitchen. He said Deputy Melgoza was standing between him and Deputy Levin, but slightly back.

Deputy MacDonald said he noticed a door located on the west wall that allows access to the rear yard. He also saw what appeared to be a pantry or laundry room to the south. Along the west wall to the east of Deputy Lavin's position, he noted an open doorway leading to the main hallway of the residence. He said Deputy Lavin was facing the doorway, focused on any activity that would come from that direction. He said moments

later, he heard voices in the rear yard area and verbal commands of "stop moving, get your hands up." He communicated to Deputy Lavin they had runners or somebody that was not being compliant and that something was going on in the backyard. Deputy MacDonald said he had difficulties hearing radio traffic, but, he was positive that one of the voices he heard was that of Sergeant Baudino, who was assigned to a rear containment position.

Deputy MacDonald said he had not yet seen any occupants inside of the location. He said seconds later, he heard a commotion, and within a "blink of an eye," two people were running directly at him, from the south portion of the breezeway. Deputy MacDonald said as the men ran toward him, Suspect Bahena was slightly ahead of Suspect Amaya. He said as they were approximately 6-7 feet away from him when he began shouting his demands for them to "stop." He said the individual on the left (east), Suspect Amaya was carrying a silver .22 caliber or small caliber handgun in his right hand. He described Suspect Amaya as running toward him "frantically and in a full sprint." Deputy MacDonald said that Suspect Amaya's right arm as slightly extended and positioned in a "low ready, shoulder high" position. He said Suspect Amaya was still coming at him almost at an angle, like he was trying to get a better shot. Deputy MacDonald said he shouted "stop, stop, put the gun down." Deputy MacDonald said Suspect Amaya did not stop, and continued to run toward him pointing the gun in his direction. He said at that time, he fired two rounds at Suspect Amaya. He described Suspect Amaya's arm as being slightly extended, about waist level and the gun pointed directly at him.

He said as Suspect Amaya slowly began to collapse onto his knees, he repeated his command "stop," at which time Suspect Amaya extended his right arm and continued to point the gun in his direction.

Deputy MacDonald said he fired two more rounds at Suspect Amaya who collapsed to the ground. He said Suspect Amaya's head was pointing north, his arms extended out in front of him and he was still maintaining a grip of the gun in his right hand. Deputy MacDonald said he shouted for someone to "get the gun", but received no response. Believing Suspect Amaya still had the ability to fire the weapon, Deputy MacDonald reacted by stepping on Suspect Amaya's right hand. He removed the gun from Suspect Amaya's grip and handed it to Deputy Melgoza. He said the second individual, Suspect Bahena, was compliant and lying on the floor next to Suspect Amaya. Suspect Bahena was escorted out of the location without incident.

Deputy MacDonald said during the shooting, he did not see Deputy Melgoza shoot, and was not aware that Deputy Melgoza fired his weapon at Suspect Amaya. He said he heard additional gunfire but was not aware of where it had come from. He said after clearing the location and in speaking with Deputy Melgoza, he learned that additional rounds were fired.

> **IAB Note:** In his Homicide interview, Deputy MacDonald stated that he did not hear any additional gunfire.

Deputy MacDonald said once they got family members out of the house, which was very quick, they did a "hasty" search of the immediate area, still holding the area. Deputy

MacDonald said Emergency Services Detail (ESD) personnel were summoned to treat Suspect Amaya. Deputy MacDonald said as medical treatment was being rendered, the remainder of the location was cleared without further incident. Deputy MacDonald said he remembers the location as being completely dark, with the exception of the lights affixed to their weapons and possibly some outer ambient light.

Deputy Jesse Melgoza

Deputy Melgoza was interviewed on May 25, 2013, by Sergeants Brenda Parker and Sonja Bracken. He was interviewed by Homicide Sergeants Marsh and Ewell on December 1, 2011. Both interviews were audio recorded.

Deputy Melgoza said that on December 1, 2011, at approximately 0245 hours, he arrived at his unit of assignment in preparation of a three location "high risk" search warrant operation. He said briefing was scheduled for 0400 hours. During that time he prepared vehicles and equipment needed for the operation. Deputy Melgoza said he first learned of the search warrant operation on Tuesday, November 29, 2011. He said he was involved in conducting surveillance, gathering intelligence with regard to details of the location(s), and assisted in crafting the tactical plan.

Deputy Melgoza said the information gathered by he and his teammates indicated that the primary target for that location was Suspect Bahena, also known as "Lil Night Owl." Suspect Bahena a documented member of the criminal street gang, "Peaceful Varrio Norwalk," was expected to be at the location at the time of service. He said Suspect Bahena was believed to be one of three suspects involved in a murder that preceded a kidnap and robbery of a second victim. A handgun was used during the course of the crime spree. He said other adults and small children were also expected to be at the location at the time of service.

Deputy Megoza said he arrived at the Command Post, which was established at Lakeland Road at Pioneer Boulevard (Little Lake Park) at approximately 0410 hours. He said he remained there for a short time until all personnel arrived and were prepared to serve the three locations simultaneously. He said at the Command Post, he, along with the Gold Team members designated for entry, boarded their marked armored resistant vehicle (ARV). While in transit to the target location, he was positioned on the rear skid. The ARV traveled west on Lakeland Road and turned south onto Pioneer Boulevard. The ARV stopped a short distance north of the location to allow outer containment personnel to post themselves at their pre-designated positions.

Deputy Melgoza said the team disembarked the ARV and approached the location that was surrounded by a three foot chain link fence with a pedestrian gate. The team entered via the pedestrian gate and made their approach. He said Gold Team Scout, Deputy Lavin approached the front entrance and found the metal security outer door to be unlocked. He said he saw Deputy Lavin position the security door open while he (Deputy Melgoza) moved forward to remove a wheelchair that was positioned off to the right of the doorway.

Deputy Melgoza said he heard Deputy Lavin make notice "banging on the door Sheriff's Department, Sheriff's Department, we have a warrant." He said there was no response and a forced entry was initiated with a ram. He said that as he entered the location he noticed that Deputy Torres and Deputy Geisbauer were at the entrance to the hallway. Seconds later he noticed Deputy Torres and Deputy Geisbauer engaged a female (later identified as [redacted]) who had emerged from one of the rear bedrooms (south of them). He said Deputy Torres began to give verbal commands to the female to walk toward him at which time he (Deputy Melgoza) instructed Deputy Torres to "hold off" until he received approval from Deputy Lavin. He said he proceeded to the kitchen area in order to check with Deputy Lavin. He said when he arrived in the kitchen area, he heard somebody on the radio saying something about "the three sides," but he could not make out what they were saying.

Deputy Melgoza said Deputy Lavin was standing ahead of him to his left (southeast) and Deputy MacDonald was standing to his right (west). He said seconds after entering the kitchen, he heard a commotion as though someone was running through the house. He said it sounded as though the activity was moving in their direction (the kitchen) but he could not identify what direction the sound was coming from.

He estimated he was approximately two feet to the rear of Deputy Lavin and Deputy MacDonald, walking toward their positions in the kitchen (eventually centering himself between the two them) when he saw two individuals (later identified as Suspects Amaya and Bahena) emerge from the south area of the breeze way. Both were running directly toward Deputy MacDonald. He said within seconds, Suspect Bahena was "right on top" (estimating within a foot) of Deputy MacDonald, who was ordering him to "get down on the ground." He said Suspect Bahena was close enough that Deputy MacDonald pushed him (Suspect Bahena) back to gain some distance. Deputy Melgoza said as this was occurring, he looked to the left of Deputy MacDonald and saw a second male (Suspect Amaya) running toward them with a silver handgun in his right hand. He said he saw Suspect Amaya raise the weapon in their direction, at which time he immediately reacted by raising his weapon as well. He said Deputy MacDonald stepped to the side (west) and fired two rounds while he fired once. He said he recalled hearing additional rounds being fired, but said he had not yet fired any additional rounds at that point.

Deputy Melgoza said Suspect Amaya fell to the floor for a brief second and was attempting to get back up while raising the handgun in their direction. Fearing for his safety, as well as the safety of Deputy Lavin and Deputy MacDonald, he said he fired one to two more rounds at Suspect Amaya. He said with a pause in gunfire and Suspect Amaya lying motionless on the floor, he heard Deputy MacDonald say "hold on, let me get the gun." He said Deputy MacDonald handed him the gun, and he placed it on the kitchen counter directly behind him.

SUSPECT STATEMENT:

Suspect Henry Behena

Suspect Bahena was interviewed on December 1, 2011, by Homicide Sergeant Ratcliff and McCarthy. The interview was audio recorded.

Suspect Bahena identified himself as a [redacted] of Suspect Amaya and said he has been living at the scene location for the past three months. He further admitted to associating with the street gang "Peaceful Varrio Norwalk" and told investigators that he is known as "Puppet."

Suspect Bahena told investigators he was asleep in the far southwest bedroom (later identified as Suspect Amaya's bedroom) when "Emiliano (Suspect Amaya) slapped me, my ass and said wake up!" He said he was groggy and confused as to what was happening. Seconds later, he heard Witness [redacted] yelling "what's going on?" from an adjacent east bedroom. Suspect Bahena said he got up and ran to Witness [redacted] room where they were frantically asking each other "what's going on?" As this conversation was taking place, Suspect Bahena heard what he believed was Suspect Amaya running through the rear yard of the location. Moments later, Suspect Bahena heard what sounded like Suspect Amaya re-entering the house via the rear entrance, and running through the far southwest bedroom and into Witness [redacted] bedroom.

Suspect Bahena said as Suspect Amaya entered the room, he heard him say "run, run run!" Without further conversation, Suspect Bahena said he instinctively starting running north through the bedroom and into a wide hallway (breezeway) that leads into the kitchen. Suspect Bahena described this particular area as being furnished with a refrigerator, washer, dryer, and miscellaneous clutter. He said he started running and bumped into a bunch of flashlights. He said right away he knew they were cops. He said he recognized the helmets and flashlights to be "SWAT Officers."

Suspect Bahena said upon seeing the flashlights, he immediately heard someone say "get down." Without hesitation, he said he immediately complied. Suspect Bahena said he dropped to the floor in a prone position just as he approached the entrance to the kitchen. As he did this, he heard what sounded like "a pop." He added that it was dark and he thought Suspect Amaya and Witness [redacted] were following close behind him. Suspect Bahena said a commotion immediately followed the "pop" and he sensed that something had fallen next to him, indicating his right side (east). He said he was lying on his stomach, his arms stretched out in front of him and face was turned to the west wall, away from the activity. He commented, "I felt like someone landed on me, but not all the way," pointing to the lower portion of his right leg.

Suspect Bahena said for a brief moment he glanced to his right (east) and saw blood on the right shoulder of his shirt. As he turned away (once again facing west) he heard what

sounded like someone gasping for air. He commented "I saw a body, but I didn't know who it was." Seconds later, Suspect Bahena heard what he believed was an officer telling him to move in the direction of their voice, toward the kitchen. He said the room was dark and the only light in the room was from the illumination of the flashlights. He could not see who was giving the verbal commands or what was happening around him.

Suspect Bahena said moments later, as he remained lying on his stomach, he felt someone pull him into the kitchen area (sliding him across the floor) and handcuff him. He was assisted up and onto his feet and was escorted out of the location within moments.

When asked what he thought the "pop" sounded like, Suspect Bahena said, "Low key, like a Deuce Five or a Deuce Deuce (a street term for .25 and .22 caliber guns)." He told investigators that he was not sure if the "pop" he heard was a gunshot or an object falling onto the floor.

Emiliano Amaya

(DECEASED)

<u>SWORN WITNESSES:</u>

Deputy Peter Lavin

Deputy Peter Lavin was interviewed by Internal Affairs Bureau Sergeants Brenda Parker and Sonja Bracken on March 25, 2013. He was interviewed by Homicide Investigator Ratcliff and Sergeant McCarthy on December 1, 2011. All interviews were audio recorded.

Deputy Lavin said that on December 1, 2012, he, along with SEB's "Gold Team" responded to the residence at [redacted] South Pioneer Boulevard, Santa Fe Springs, for the purpose of executing a search warrant. This was done at the direction of Homicide Investigators Steve Lankford and Dave Gunner in relation to an ongoing kidnap/murder investigation.

Deputy Lavin said he was assigned to the entry team and responded to the location as a passenger in an armored response vehicle ("ARV"). Six additional members of the entry team also occupied this vehicle. He said that while in route, containment personnel advised (via radio) that lights were on inside the residence. He said this indicated to them that at least some of the occupants may have been awake and active.

Deputy Lavin said that upon arrival to the location, the entry team exited the armored response vehicle, walked to the east side of the residence and "breached" a chain link gate. They then approached the front (east) door. Deputy Lavin said he simultaneously checked the exterior security screen door knob and found it to be unlocked. He then opened the security screen and found the interior wooden door to be closed and locked.

Deputy Lavin said he knocked on the front door and verbally advised the occupants regarding the search warrant service (knock and notice). This was done multiple times and elicited no response. He then ordered, "ram- up" and waited for Deputy Casey Cheshier to respond to his location. Moments later, Deputy Lavin ordered (via radio) the deployment of a diversionary device known as a "flash bang." He then directed Deputy Cheshier to "ram" the interior wooden door and forcibly allow entry into the residence.

Deputy Lavin said they immediately determined that they occupied the living room. He also observed what appeared to be a hallway that extended into the south portion of the residence. No occupants were seen at this time. Deputy Lavin said he directed members of the entry team to cover the hallway while he and Deputy MacDonald approached the kitchen. This was done due to multiple potential threats associated with the hallway. Deputy Lavin said that during this time, Sergeant Anthony Baudino advised (via radio) that there was a "runner" or "runners" in the backyard. He said this indicated to them that someone who occupied the residence was now attempting to escape.

> **IAB NOTE:** Sergeant Baudino was positioned in a rear alley, west of the residence, as part of containment personnel. Both he and Deputy Garrick Twedt were standing near a rear wooden gate that allowed access to the alley from the back yard.

Deputy Lavin said moments later, Sergeant Baudino advised that the "runner(s)" had now changed direction and were apparently re-entering the residence. Deputy Lavin said that during this time, his attention was drawn to an older female Hispanic adult who was standing in the hallway. At this point, Deputy Lavin heard the sound of "running" and "banging" near the rear (west) of the residence. Deputy Lavin said at that point, he heard more running, and it was getting closer. He said at some point he heard shooting. He said he heard a couple shots go off and he looked to his right and saw two guys go down. He said he then saw the guy closest to him with a handgun in his right hand. He said due to potential additional threats he focused back to the female who was now in hysterics saying, "You just shot my [redacted]"

Deputy Levin said moments later, Deputy MacDonald spontaneously stated, "get the gun, get the gun out of the way!" Due to potential additional threats, Deputy Lavin again refocused his attention on the hallway and immediately directed other team members to escort the now screaming female out of the residence. During this time, Sergeant Lee began the process of conducting a "roll call", (via radio) to determine if all personnel involved in the search warrant operation were uninjured.

Deputy Lavin said he noticed that a second female had entered the hallway near the utility (wash) room. This female was standing in the south portion of the hallway and had apparently exited a bedroom. He said the second female appeared somewhat confused and did not initially respond to verbal direction. He said she screamed, "you shot my [redacted]" and ran into the kitchen. She was then escorted out of the residence by other team members. Deputy Lavin said that over the next several seconds, members of the entry team maintained their positions while paramedics from the Los Angeles Sheriffs

Emergency Services Detail entered the location and provided medical attention to the wounded male. He said they (entry team) then began to clear the remainder of the residence after being advised that this male had perished.

> **IAB NOTE**: At this point, Sergeant Baudino advised, via radio, that one of the people that he saw running back into the residence was a male Hispanic adult wearing no shirt. This description was similar to that of the deceased male. Baudino then entered the location and confirmed this fact.

Deputy Lavin said that while clearing the remainder of the residence, members of the entry team discovered three sleeping children, one in the southeast bedroom and two in the southwest bedroom. All were "sheltered in place" and then safely escorted out of the location. After completing the search of the residence, members of the entry team responded to the backyard and searched for additional suspects. During this time, a search dog was deployed to assist with this task. They also searched the attached garage and found no one inside. Deputy Lavin said he was later advised that a male and female were discovered inside a vehicle in the alley behind the location. He had no contact with either, but later learned that both were detained for weapons laws violations.

CIVILIAN WITNESSES:

Refer to Exhibit "A" pages 61-65

SUSPECT INJURIES:

Suspect Amaya sustained five gunshot wounds to his body: right shoulder, upper left back, left lower back, right lower back, and right lateral abdomen. Suspect Amaya succumbed to his injuries. Refer to Exhibit "A," pages 265-287 for Coroner's report.

DEPUTY PERSONNEL INJURIES:

None

PHYSICAL EVIDENCE:

Refer to Exhibit "A" pages 45-47

INVESTIGATORS OBSERVATIONS:

During the scene walkthrough IAB Investigators observed the scene location which was very cluttered with debris consisting of clothing, furniture and trash. The home appeared to be in its natural state. The area was so cluttered that IAB investigators were asked to observe the scene from the living room entry way so that the scene would not be disturbed. IAB investigators saw and concur with the description of the scene location in Exhibit "A" pages 6-14.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputies MacDonald and Melgoza used Heckler and Koch, Model MP-5, 9mm submachine guns. Deputy MacDonald fired four rounds, Deputy Melgoza fired two rounds.

WEAPONS USED BY SUBJECT:

The suspect used a Jennings, J-22, semiautomatic pistol.

PROPERTY DAMAGE:

None



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
JACQUELYN LACEY • Chief Deputy District Attorney
PATRICK R. DIXON • Assistant District Attorney

JANICE L. MAURIZI • Director

August 6, 2012

Captain David Smith
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #: 11-0764
L.A.S.D. URN #: 011-16474-0451-013

Dear Captain Smith:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the December 1, 2011, fatal shooting of Emilano Amaya, by Los Angeles County Sheriff's (LASD) Deputies Pat Mac Donald and Jessie Melgoza. We have determined that Deputies Mac Donald and Melgoza acted lawfully in self-defense and in defense of each other.

The District Attorney Command Center was notified of this shooting at 5:47 a.m., on December 1, 2011. The District Attorney Response Team (DART), consisting of Deputy District Attorney Shannon Presby and District Attorney Senior Investigator [redacted] responded to the scene. They were given a briefing of the circumstances surrounding the incident and a "walk-through" of the shooting scene.

The following analysis is based upon reports submitted by LASD Homicide. No compelled statements were considered for purposes of this analysis.

FACTUAL ANALYSIS

On December 1, 2011, members of the LASD's Operation Safe Streets (OSS) team and members of the LASD's Special Enforcement Bureau (SEB) executed simultaneous search warrants at three locations within Los Angeles County seeking information regarding a gang murder that had occurred on July 31, 2011. Arrest warrants had also been issued for the residents of those locations in connection with the July 31st murder. One of the locations searched was the residence of Henry Bahena (AKA Lil Night Owl); one of the suspects in the July 31st murder. Deputies Mac Donald and Melgoza were among the deputies who made entry into that residence.

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After giving "knock-notice" to the occupants of the location and receiving no response, the search team made a forced entry. Moments after entering the location, Melgoza heard what sounded like running footsteps coming toward his location in the cramped and debris strewn kitchen of the residence. The interior of the residence was completely dark except for the illumination provided by the deputies' flashlights. Mac Donald was positioned to Melgoza's right in the kitchen when Henry Bahena burst into the kitchen coming within one foot of Mac Donald. Mac Donald pushed Bahena back in order to create distance from him while simultaneously ordering Bahena to "get down on the ground."

As Mac Donald was engaged with Bahena, Amaya ran into the kitchen pointing a silver handgun at the deputies. Fearing that Amaya was about to shoot them, Mac Donald and Melgoza fired their service weapons at him. Amaya fell to the floor still gripping the handgun in his right hand. When Amaya attempted to get up while simultaneously raising the handgun towards the deputies, Melgoza fired again.

Amaya fell back to the floor. Mac Donald removed the handgun from Amaya's right hand, gave it to Melgoza who placed the handgun on the kitchen counter. Emergency medial personnel responded to the scene but were unable to save Amaya's life.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears that the person claiming the right of self-defense actually and reasonably believed that he, or the person defended, was in imminent danger of great bodily injury or death. People v. Randle (2005) 35 Cal. 4th 987, 994; People v. Mercer (1962) 210 Cal.App.2d 153, 161.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent imminent injury. CALCRIM 3470.

Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 189 Cal.App.2d 575.

CONCLUSION

Deputies Pat Mac Donald and Jessie Melgoza were in the process of executing a high risk search warrant at the residence of an identified gang member and murder suspect. The residence was extremely dark and very cramped. Almost immediately after entering the residence, the deputies were confronted by the murder suspect and another male armed with a firearm. The close confines of the residence gave the deputies an exceedingly short period of time to react to the grave threat presented by Amaya. When Amaya pointed the firearm at them, both deputies

reacted to protect themselves and each other from deadly harm. When Amaya again raised the firearm, Deputy Melgoza acted to protect his life and the life of Deputy Mac Donald.

We find that LASD Deputies Pat Mac Donald and Jessie Melgoza acted lawfully in self-defense and in defense of each other. We are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

SHANNON PRESBY
Deputy District Attorney
(213) 974-3888

c: Deputy Pat Mac Donald, #[redacted]
Deputy Jessie Melgoza, #[redacted]